

U.S. OFFICE OF PERSONNEL MANAGEMENT

PAY & LEAVE LEAVE ADMINISTRATION

Fact Sheet: 5 Days of Excused Absence for Employees Returning from Active Military Duty

Description

Federal civilian employees who are called to active duty in support of the Overseas Contingency Operations (OCO) (formerly the Global War on Terrorism) are entitled to 5 days of excused absence upon their return from active duty. The intent of this entitlement, which was granted through [Presidential Memorandum](#), is to provide 5 days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life.

Entitlement to 5 days of Excused Absence

A civilian employee is entitled to 5 days of excused absence after he or she returns from active military duty in support of the contingency operation -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn, as well as any other current or future military operations deemed to be part of the OCO. The President's memorandum applies to all employees called to active duty in support of the OCO, regardless of whether they are deployed overseas or stateside. The 5 days of excused absence are pro-rated for employees on uncommon tours of duty (see Q&A 12).

Minimum Service Requirements

Since the intent of the 5 days of excused absence is to aid employees in their readjustment to civilian life, employees must have served a significant period of time on active duty before being eligible for the 5 days of excused absence. Therefore, an employee may be granted 5 days of excused absence only after he or she returns from at least 42 consecutive days of active military service in connection with the continuing OCO.

Multiple Deployments

For subsequent periods of active duty in support of the OCO, an agency may not grant more than 5 days of excused absence within a 12-month period. The 12-month period begins on the first day of excused absence and ends 365 days later. An employee called to active duty on multiple occasions is therefore entitled to receive 5 days of excused absence as long as the service meets the 42 consecutive days standard and the employee has not received 5 days of excused absence during the previous 365 days.

Timing

The 5 days of excused absence must be granted as soon as an eligible employee reports back for Federal civilian duty or notifies the agency of his or her intent to return to civilian duty, except in the following situations:

1. If the employee had received 5 days of excused absence following a period of active duty, but was not granted the 5 days of excused absence for a second or subsequent period of active duty, he or she may take the 5 days of excused absence at a time mutually agreeable to the employee and the agency.
2. If, for any other reason, the employee was not granted the 5 days of excused absence upon return, he or she should be granted the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

Additionally, the 5 days of excused absence must be used for a continuous period immediately upon return. The days may not be “stockpiled” for use at a later date. The commencement of the 5 days of excused absence represents a return to Federal civilian employment (i.e., to pay and duty status), and the employee is obligated to report for work at the end of the 5-day period.

Questions and Answers on Excused Absence for Employees Returning from Active Duty in the Overseas Contingency Operations

- **Who is entitled to receive the 5 days of excused absence?**

A civilian employee is entitled to 5 days of excused absence after he or she returns from active military service in connection with the continuing Overseas Contingency Operations (OCO) -- such as those called to active duty as part of Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn, as well as any other current or future military operations deemed to be part of the OCO.

- **How long must an employee be on active duty before he or she qualifies for the 5 days of excused absence?**

The intent of the President's memorandum is to grant 5 days of paid time off (excused absence) to employees returning to Federal civilian service from active duty to aid in their readjustment to civilian life. The President's memorandum anticipates Federal employees will serve a significant period of time on active duty in support of the OCO.

An employee must be on active duty in support of the OCO for at least 42 consecutive days to qualify for 5 days of excused absence. An employee does not qualify for excused absence for active duty of less than 42 days or for an accumulation of 42 or more days of active duty if at least one of the activations does not meet the 42 consecutive days standard. However, agencies may exercise their normal policies to grant excused absence in circumstances not covered by this policy.

- **When must an agency grant the 5 days of excused absence? Must an agency grant the excused absence as soon as the employee returns to Federal civilian service?**

Agencies must provide an employee returning from active military service consisting of at least 42 consecutive days in support of OCO with 5 days of excused absence upon his or her return

to Federal civilian service to aid in readjustment to civilian life. Upon receiving notification from an employee of his or her intent to return to civilian duty on a specific date, an agency must grant the employee 5 days of excused absence immediately prior to the employee's actual resumption of his or her duties. The commencement of the 5 days of excused absence represents a return to Federal civilian employment (i.e., to pay and duty status), and the employee is obligated to report for work at the end of the 5-day period.

If an employee was not granted the 5 days of excused absence for a second or subsequent period of active duty outside the original 12-month period (see Q&A 5 and 6), he or she may schedule the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

- **How does the 5 days of excused absence affect the time limits for restoring an employee to Federal civilian employment under 5 CFR part 353, subpart B?**

The 5 days of excused absence do not affect the time limits for exercising restoration rights, because the commencement of the 5 days of excused absence constitutes a return to Federal civilian service. For example, an employee may take whatever grace period is allowed under part 353 and, in addition, is entitled to 5 days of excused absence.

- **We have employees who have returned to Federal civilian service, but are expected to be activated again. Can an employee receive 5 days of excused absence more than once?**

Yes. Generally, an employee may be granted 5 days of excused absence after he or she returns from at least 42 consecutive days of active military service in connection with the OCO. However, for subsequent periods of active duty in support of the OCO, an agency may not grant more than 5 days of excused absence within a 12-month period. The 12-month period begins on the first day of excused absence and ends 365 days later. See the Eligibility Examples following Question 14.

An employee called to active duty on multiple occasions is entitled to receive 5 days of excused absence as long as the service meets the 42 consecutive days standard and does not end within the 12-month limitation. If the employee has already returned to Federal civilian service and was not granted 5 days of excused absence for a second or subsequent period of active duty, he or she may schedule the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

- **If another 42 consecutive days of active duty in support of the OCO occurs during the same 12-month period, may 5 days of excused absence be granted and held for use at the end of the 12-month period?**

No. The subsequent active duty does not result in another 5 days of excused absence if it falls within the 12-month limitation. The employee is not eligible for another 5 days of excused absence under this policy, even if held for use at the end of the 12-month period. A subsequent period of active duty of at least 42 consecutive days must end after the end of the current 12-

month period for the employee to be eligible for another 5 days of excused absence. See the Eligibility Examples following Question 14.

- **An employee was previously granted more than 5 days of excused absence in the same 12-month period due to multiple periods of short-term active duty. Does this constitute an indebtedness that the employee must repay to the agency?**

Agencies have discretion to provide excused absence to the extent that such time off does not interfere with agency operations. If agencies determine or have determined that extra periods of excused absence were authorized as such, there would be no "excess" or "unauthorized" excused absence for the employee to repay.

- **Must an employee use the 5 days of excused absence all at once?**

Yes. The intent of the President's memorandum is to provide returning employees with a continuous period of paid time off to spend with their families before returning to Federal civilian service, except in the two situations described in Q&A 9.

- **May an employee return to Federal civilian duty and then take the 5 days of excused absence at a later date?**

No. The 5 days of excused absence must be granted as soon as the employee reports back for Federal civilian duty or notifies the agency of his or her intent to return to civilian duty, except in the following situations:

1. If the employee had received 5 days of excused absence following a period of active duty, but was not granted the 5 days of excused absence for a second or subsequent period of active duty, he or she may take the 5 days of excused absence at a time mutually agreeable to the employee and the agency.
2. If, for any other reason, the employee was not granted the 5 days of excused absence upon return from active duty, he or she should be granted the 5 days of excused absence at a time mutually agreeable to the employee and the agency.

The 5 days of excused absence may not be "stockpiled" for use at a later date. In addition, the 5 days of excused absence is not to be confused with "credit hours" earned under a flexible work schedule or compensatory time off earned for overtime hours.

- **If an employee was activated for military service in connection with the OCO but was not deployed overseas, is the employee eligible for the 5 days of excused absence when he or she exercises return rights?**

Yes, the President's memorandum applies to all employees who were called to active duty in support of the OCO.

- **If an employee who was activated was not a Federal employee when his or her tour began, but has been hired by the Federal Government since his or her deactivation, is the employee entitled to the 5 days of excused absence?**

No. The President's memorandum specifically addresses "returning Federal civil servants who were called to active duty." A new employee who was not a Federal civilian employee at the time of his or her activation does not qualify for the 5 days of excused absence.

- **How do agencies compute the 5 days of excused absence for part-time employees or employees on uncommon tours of duty, such as Federal firefighters? Do these employees receive 5 work days, 40 hours, or a prorated amount of excused absence?**

Each employee is entitled to the equivalent of 1 workweek of excused absence. The period of excused absence for an employee on an uncommon tour of duty or an employee on a part-time work schedule will be prorated according to the number of hours in the employee's regularly scheduled workweek. For example:

Hours in the regularly scheduled workweek	Hours of excused absence
20	20
40	40
56	56
72	72

- **May the 5 days of excused absence be prorated depending upon the length of the employee's active duty?**

No. Each employee who was activated for military service in connection with the OCO is entitled to the equivalent of 1 workweek of excused absence.

- **How do agencies compute the 5 days of excused absence for employees who work an alternative work schedule?**

Agencies may wish to place returning employees who work an alternative work schedule (AWS) on a "straight 8" schedule prior to starting their normal tour of duty. This would ensure that all employees returning from active duty are treated equitably in the administration of the 5 days of excused absence.

Eligibility Examples

Example 1:

On July 31, 2011, an employee is called to active duty in support of the OCO for 120 days. Upon return to Federal civilian service, the employee is granted 5 days of excused absence to aid in readjustment to civilian life. The 5 days of excused absence are used November 28 through December 2, 2011, and the employee returns to his or her Federal civilian duties on December 5, 2011. On April 3, 2012, the employee is again called to active duty in support of the OCO for 45 days. Upon return to Federal civilian service on May 21, 2012, the employee is not eligible for 5 days of excused absence, as the employee is still within the same 12-month period. The first 12-month period during which 5 days of excused absence was granted expires on November 27, 2012.

Example 2:

On May 1, 2011, an employee is called to active duty in support of the OCO for 120 days. Upon return to Federal civilian service, the employee is granted 5 days of excused absence to aid in readjustment to civilian life. The 5 days of excused absence are used August 29 through September 2, 2011, and the employee returns to his or her Federal civilian duties on September 6, 2011. On July 23, 2012, the employee is again called to active duty in support of the OCO for 45 days. Upon return to Federal civilian service on September 10, 2012, the employee is eligible for 5 days of excused absence, as the first 12-month period during which 5 days of excused absence was granted expires on August 28, 2012 (i.e., will end on the day before the first anniversary of the employee's beginning to use excused absence). The first day of excused absence, September 10, 2012, would be the start of a new 12-month period, which will end September 9, 2013.

Example 3:

On March 5, 2012, an employee is called to active duty in support of the OCO for 30 days. Upon return to Federal civilian service, the employee requests 5 days of excused absence prior to returning to his or her Federal civilian duties. The employee is not eligible for 5 days of excused absence since the period of active duty did not meet the qualifying requirement of at least 42 consecutive days.

Example 4:

On February 6, 2012, an employee is called to active duty in support of the OCO for 20 days. On May 14, 2012, the employee is again called to active duty in support of the OCO for 10 days. On October 1, 2012, the employee is called to active duty for the third time in support of the OCO for 20 days. The employee returns to his civilian duties after each period of active duty. Upon return to Federal civilian service on October 22, 2012, the employee requests 5 days of excused absence based on 50 days of active duty. The employee is not eligible for 5 days excused absence since none of the individual periods of active duty meet the qualifying requirement of at least 42 consecutive days.

References

- CPM 2008-21 [Minimum Service Requirement to Receive 5 Days of Excused Absence for Employees Returning from Active Military Duty](#)
- CPM 2008-12 [Update on Excused Absence for Employees Returning from Active Military Duty](#)
- CPM 2003-14 [Return of Activated Military Members to Federal Civilian Employment](#)